IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:	)	
	)	
MILBURN HOGUE	)	BK. NO. 08-02558-GP1-13
MELANIE HOGUE	)	JUDGE PAINE
309 Woods Drive	)	
Columbia, TN 38401	)	
SSN: XXX-XX-2405, XXX-XX-0394	)	
	)	
DEBTORS.	)	

ORDER CERTIFYING ISSUE TO THE SUPREME COURT OF TENNESSEE

This matter came to be heard on June 27, 2008, before the Honorable Marian F. Harrison, Judge of the United States Bankruptcy Court for the Middle District of Tennessee, on the objection, filed by Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters pending in the Middle District of Tennessee, to the homestead exemption claimed by the Debtors.

Milburn and Melanie Hogue ("the Debtors") filed a joint Chapter 13 bankruptcy case on March 27, 2008. The Debtors' Schedule I indicates the Debtors are married and have one minor child. The Debtors' Schedule C claims a real property exemption of $50,000.00, pursuant to Tenn. Code Ann. § 26-2-301(f).

The Chapter 13 Trustee filed an objection to the Debtors' exemptions on the basis that the debtors improperly claimed a $50,000 homestead exemption pursuant to Tenn. Code. Ann. § 26-2-301(f).

This Court having heard arguments of counsel, stipulations of parties, and in consideration of the entire record in this cause, hereby finds that a split of authority exists between the Bankruptcy Courts in Tennessee whether TCA 26-2-301(f) (2007), *Public Acts.,c.,560, Section 1, effective June 27, 2007*, entitles jointly filing bankruptcy debtors with dependent minor children to a homestead exemption of $50,000.00, $25,000.00 or $7,500.00 or whether said statute is limited to non-married individuals with dependent minor children. (See *In re Staggs*, 381 B.R. 230 (Bankr. M.D. Tenn. 2008); *In re Butturini*, 384 B.R. 491 (Bankr. E.D. Tenn. 2008)

Rule 23 of the Tennessee Supreme Court states,

The Supreme Court may, at its discretion, answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, a District Court of the United States in Tennessee, or a United States Bankruptcy Court in Tennessee. This rule may be invoked when the certifying court determines that, in a proceeding before it, there are questions of law of this state which will be *determinative of the cause and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court of Tennessee.*

Pursuant to Rule 23 of the Tennessee Supreme Court, the names of each of the parties are:

Movant: Henry E. Hildebrand, III, Standing Chapter 13 Trustee
Respondent: Milburn and Melanie Hogue

The names, addresses and telephone numbers of counsel for each party are:

Movant: Henry E. Hildebrand, III
Tracy L. Schweitzer
P.O. Box 190664
Nashville, TN 37219
615-244-1101

Respondent: Steven L. Lefkovitz
618 Church Street, Ste. 410
Nashville, TN 37219
615-256-8300

Accordingly, it is

ORDERED, that the question of whether TCA 26-2-301(f) (2007), *Public Acts., c., 560, Section 1, effective June 27, 2007*, entitles a married couple with dependent minor children, jointly filing bankruptcy, to a homestead exemption of $50,000.00, $25,000.00, or $7,500.00, and whether the exemption provided in said statute is limited to non-married individuals with dependent minor children. The questions are hereby certified as questions of law to the Supreme Court of the State of Tennessee pursuant to Tennessee Supreme Court Rule 23.

IT IS SO ORDERED.

THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY AS INDICATED AT THE TOP OF THE FIRST PAGE.

APPROVED BY:

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Chapter 13 Trustee
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pleadings@ch13nsh.com

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been placed in the United States mail, postage prepaid, or otherwise dependably delivered including electronic case noticing, to Milburn and Melanie Hogue, 309 Woods Drive, Columbia, TN 38401; Steven L. Lefkovitz, 618 Church Street, Ste. 410, Nashville, TN 37219; and Beth R. Derrick, Asst. U.S. Trustee, 701 Broadway, 318 Customs House, Nashville, TN 37203 on this 25th day of July, 2008.

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Chapter 13 Trustee